UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Plaintiff,

v.

RODRIGO KEDE DE FREITAS LIMA,

Defendant.

**CIVIL CASE DISCOVERY
PLAN AND SCHEDULING
ORDER**

20 Civ. 4573(PMH)(PED)

This Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel and any unrepresented parties, pursuant to Fed. R. Civ. P. 16 and 26(f):
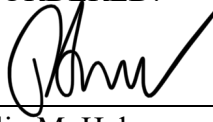
1. All parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences.

2. This case is not to be tried to a jury.

3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed by December 15, 2020.

4. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) shall be completed by November 16, 2020.

5. Fact Discovery

    a. All fact discovery shall be completed by March 15, 2021.

    b. Initial requests for production of documents shall be served by December 22, 2020.

    c. Interrogatories shall be served by December 31, 2020.

    d. Non-expert depositions shall be completed by February 28, 2021.

e.   Requests to admit shall be served by December 31, 2020.

f.   Any of the interim deadlines in paragraphs 5(b) through 5(e) may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 5(a).

6.   Expert Discovery

a.   All expert discovery, including expert depositions, shall be completed by March 31, 2021.

b.   The parties shall serve opening expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) by March 8, 2021.

c.   The parties shall serve rebuttal expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2) by March 15, 2021.

d.   The interim deadlines in paragraphs 6(b) and 6(c) may be extended by the written consent of all parties without application to the Court, provided that all expert discovery is completed by the date set forth in paragraph 6(a).

7.   The parties agree that, through the earlier of: (a) a decision issued by the U.S. Court of Appeals for the Second Circuit on the pending appeal in this case; or (b) December 22, 2020, the scope of discovery shall be limited to Mr. Lima's interim role as Executive Program Observer with Microsoft.

8.   ALL DISCOVERY SHALL BE COMPLETED BY MARCH 31, 2021.

9.   All motions and applications shall be governed by the Court's Individual Practices, including the requirement of a pre-motion conference before a motion for summary judgment is filed.

10.   Unless otherwise ordered by the Court, within 30 days after the date for the completion of discovery, or, if a dispositive motion has been filed, within 30 days after a decision on the motion, the parties shall submit to the Court for its approval a Joint Pretrial Order prepared in accordance with the Court's Individual Practices. The parties shall also comply with the Court's Individual Practices with respect to the filing of other required pretrial documents.

11.   The parties have conferred and their present best estimate of the length of the trial is four days.

12.   This Civil Case Discovery Plan and Scheduling Order may not be modified or the dates herein extended without leave of the Court or the assigned Magistrate Judge acting under a specific order of reference (except as provided in paragraphs 5(f) and 6(d) above).

13.   The Magistrate Judge assigned to this case is the Honorable Paul E. Davison.

14.   If, after the entry of this Order, the parties consent to trial before a Magistrate Judge, the Magistrate Judge will schedule a date certain for trial and will, if necessary, amend this Order consistent therewith.

15.   The next case management conference is scheduled for ___4/1/2021___ at ___ 10:30 a.m.___ .

Dated: New York, New York
        November 2, 2020

                                        SO ORDERED:

                                        _____
                                        Philip M. Halpern
                                        United States District Judge

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